

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

FREDERICK W. ERNST AND VIRGINIA R.
ERNST,

No. 1:22-cv-41

Plaintiffs,

v.

LORRAINE D. DONAHOE AND US XPRESS
LEASING, INC.,

Defendants.

NOTICE OF REMOVAL

AND NOW comes the Defendant US Xpress Leasing, Inc., by and through its attorneys, Dickie, McCamey & Chilcote, P.C., and pursuant to 28 U.S.C. §1441 et seq., respectfully requests that this matter be transferred from the Court of Common Pleas of McKean County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania, and respectfully represent as follows:

1. A civil action styled *Frederick W. Ernst and Virginia R. Ernst, Plaintiffs, v. Lorraine D. Donahoe and US Xpress Leasing, Inc., Defendants*, was commenced in the Court of Common Pleas of McKean County, PA by Complaint filed on January 21, 2022 and docketed at No. 25 CD 2022, attached hereto as **Exhibit A**.
2. Plaintiffs allege that they sustained injuries resulting from an incident involving a motor vehicle collision on March 23, 2020 in McKean County, PA.
3. The action involves a controversy between citizens of different states, as per the Complaint:
 - a. Plaintiffs are residents of Port Allegany, McKean County, PA; and

b. Defendant Lorraine D. Donahoe is a resident of Spring, Montgomery County, Texas, and US Xpress Leasing, Inc. is a corporation located in Hamilton County, State of Tennessee.

4. This action is one in which the District Courts of the United States possess original jurisdiction under 28 U.S.C. §1332; upon information and belief, complete diversity existed among Plaintiffs and Defendants at the time the Complaint was filed and at the time of removal and, upon information and belief, Plaintiffs allege injuries and damages which can exceed the sum or value of \$75,000.00, exclusive of interest and costs.

5. This Notice of Removal is filed within 30 days after counsel for US Xpress Leasing, Inc. received Plaintiffs' Complaint (filed on January 21, 2022 and received on February 4, 2022), which was the first paper from which it was first ascertained that this action is one which is removable.

6. Written notice of the filing of this Notice of Removal will be promptly served upon counsel for Plaintiffs after the filing of the Notice with the United States District Court for the Western District of Pennsylvania, as is required by law.

7. A true and correct copy of this Notice of Removal will be filed with the Prothonotary of the Court of Common Pleas of McKean County, Pennsylvania, promptly after the filing of the Notice with the United States District Court for the Western District of Pennsylvania, as is required by law. The Notice of Removal to be filed in the McKean County Court of Common Pleas is attached here as **Exhibit B**.

8. By filing this Notice of Removal, Defendant does not waive any defense which may be available to this party, including jurisdiction.

9. WHEREFORE, Defendant US Xpress Leasing, Inc. respectfully requests that this Honorable Court assume subject matter jurisdiction over this action on the diversity jurisdiction grounds set forth in this Notice of Removal.

JURY TRIAL DEMANDED.

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/ Edward M. Vavro, Jr.

Edward M. Vavro, Jr., Esquire

Daniel R. Gigler, Esquire

Two PPG Place, Suite 400

Pittsburgh, PA 15222-5402

evavro@dmclaw.com

dgigler@dmclaw.com

Counsel for Defendant US Xpress
Leasing, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and copy of the foregoing Notice of Removal was served this 11th day of February, 2022, by electronic delivery upon the following:

Robert B. Elion, Esquire
125 East Third Street
Williamsport, PA 17701
relion@elionlaw.com
Counsel for Plaintiffs

David B. Ross, Esquire
One East Third Street
P.O. Box 310
Coudersport, PA 16915
therrosslawfirm@gmail.com
Counsel for Plaintiffs

By Regular U.S. Mail:
Lorraine D. Donahoe
4262 Medina River Loop
Spring, TX 77386

Respectfully submitted,

DICKIE, McCAMEY & CHILCOTE, P.C.

By: /s/ Edward M. Vavro, Jr.

Edward M. Vavro, Jr., Esquire
Two PPG Place
Pittsburgh, PA 15222-5402
(412) 281-7272
Counsel for Defendant US Xpress Leasing, Inc.